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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,019	07/25/2001	Ira J. Simon	10384	9665

7590 07/03/2003

David Weiss  
12650 Riverside Drive Suite 100  
North Hollywood, CA 91607-3492

EXAMINER

GALL, LLOYD A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/917,019

Applicant(s)

SIMON ET AL.

Examiner

Lloyd A. Gall

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21,23-33 and 35-53 is/are pending in the application.
- 4a) Of the above claim(s) 46-53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-38 is/are allowed.
- 6) ☒ Claim(s) 1-8,19-21,23,24,31-33,39,40 and 43-45 is/are rejected.
- 7) ☒ Claim(s) 9-18,25-30,41 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21, 23-33 and 35-45, drawn to a lock apparatus, classified in class 70, subclass 224.
- II. Claims 46-53, drawn to a method of installing a door lock, classified in class 70, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in a materially different process, such as installing the lock body and cylinder lock to the door after the trim plate has been secured to the door.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Newly submitted claims 46-53 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: See the above reason.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 46-53 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Arens.

Arens teaches a cylindrical spindle 38 as seen in fig. 4, a lock body 14, a latchbolt 28, a retractor 46, 64 for the latchbolt, a lever handle 32, and a lock 80 in the handle which cooperates with slots 88 and 115 to lock the handle both in its latchbolt latched and unlatched positions. The lock 80 is key-operated by use with a key-type padlock as seen in fig. 1. The locking of the handle in its unlatched positions serves as a visual indicator of the condition of the latchbolt.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noca in view of Arens.

Noca teaches a cylindrical lock apparatus (1) including a latchbolt 3, a lock body 1, a retractor 7 for receiving a spindle, and a lever handle 12. Arens has been discussed above. To provide a key-operated lock for use with the lever handle of Noca, would have been obvious in view of the teaching of Arens, the motivation being to prevent unauthorized unlatching of the latchbolt by one who does not possess the proper key.

Claims 1-5, 7, 8, 19-21, 23, 31, 39, 40, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (754) in view of Best et al (101) and Mullich et al.

Jones teaches a trim pull handle plate 37, 43, 44, a cylindrical 24 lock apparatus including a bolt 16, a lock body 17, a spindle 24 (or a spindle defined by the portion of element 22 which is engaged in socket 24), a conical attachment plate 26 with an opening in registry with the trim plate opening to receive the mortise cylinder lock including a housing 23 and a rotatable cylinder (or key plug), a handle 25 secured to the spindle, and a cam 22 secured to and rotatable with the cylinder, and securing means 33 extending from the housing 29 through the lock body 17 and into the cylinder lock 23 whereby the lock body 17 is secured to the trim plate independently of the door and inwardly of the trim plate, and the housing 23 is secured to the trim plate independently of the door and outwardly of the lock body 17. The openings at 27 of the attachment plate and the trim plate allow the cylinder 23 to be removed relative to the attachment plate and trim plate leftwardly in fig. 1 after the screws 33 are removed. Best et al (101)

teaches a key cylinder and knob 17 used with a latchbolt 10. Mullich et al teaches a retractor 88 used with a bolt and spindle/cam 48 and allowing the use of screw 54 extending through the lock body 80 as seen in fig. 8. To utilize a latchbolt with the lock of Jones would have been obvious in view of the teaching of Best et al, to allow the bolt to be projected upon closing the door. To utilize a retractor with the cam/spindle 22, 24 of Jones, would have been obvious in view of the teaching of Mullich et al, to transfer key and handle 25 movement to sliding movement of the bolt.

Claims 6 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Jones reference as applied to claims 1 and 23 above, and further in view of the Photograph of door pull manufactured by Triangle Brass Manufacturing.

The Photograph teaches a door pull with tapering top and bottom edges. To substitute a trim plate with a tapering door pull for the trim plate of Jones, would have been obvious in view of the teaching of the Photograph, to provide a large gripping surface portion, to simplify opening of the door.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Jones reference as applied to claim 31 above, and further in view of Shen (760).

Shen teaches trim and attachment plates 11, 12 adapting a lock 30 for removal capabilities upon rotation of a key cylinder. To modify the trim and attachment plates of Jones to allow cylinder removal upon key rotation, would have been obvious in view of the teaching of Shen, the motivation being to allow a re-keyed lock to be installed to optimize security, as is well known in the lock art.

Art Unit: 3676

Claims 9-18, 25-30, 41 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 35-38 are allowed.

Applicant's arguments with respect to claims 1-8, 19-21, 23, 24, 31-33, 39, 40 and 43-45 have been considered but are moot in view of the new ground(s) of rejection.

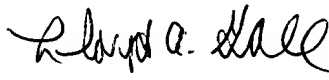
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 703-308-0828. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

LG LG  
June 27, 2003

  
Lloyd A. Gall  
Primary Examiner